



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,339	05/11/2001	Dan Kikinis	007287.00040	8678
22907 7590 04/25/2011 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER				
LEWIS, JONATHAN V				
ART UNIT		PAPER NUMBER		
2425				
MAIL DATE		DELIVERY MODE		
04/25/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/854,339

Applicant(s)

KIKINIS ET AL.

Examiner

JONATHAN LEWIS

Art Unit

2425

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,8,9,12-14,16,19,20,23-25,27,30,31,35,37,38,40-48,50 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-943)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1-3,5,8,9,12-14,16,19,20,23-25,27,30,31,35,37,38,40-48,50 and 51.

DETAILED ACTION

Miscellaneous

Please note: the examiner of record has changed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 8-9, 12-14, 16, 19-20, 23-25, 27, 30-31, 41-44, 46-48, 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Finseth et al., hereafter Finseth (US 6,754,906).

Regarding claim 1 (Currently Amended), Finseth teaches a system, comprising: a first unit configured to generate an interactive three-dimensional (3-D) electronic programming guide (EPG), the 3-D EPG including a presentation of a virtual world having programming information and a layout (Fig. 8A shows the 3-D EPG having programming information and a layout); and a database including a plurality of 3-D EPG worlds, each 3-D EPG world including a virtual world layout that provides the layout of the presented virtual world (Fig. 2, 48 shows the program guide database of the program guide system 46; col. 5, line 60 – col. 6, line 21 discloses the formatting of the EPG information of the electronic program system; col. 7, lines 9-45 discloses the parts

of the electronic program guide system that provides the category classification of the channel objects, which examiner interprets as equivalent to an EPG world); wherein the first unit is further configured to: receive, from a user, at least one user preference assigning a 3-D EPG world of the plurality of 3-D EPG worlds to one or more channels of the 3-D EPG, receive a selection of a channel of the one or more channels of the 3-D EPG, and in response to receiving the selection of the channel, modify the layout of the presented virtual world based on the virtual world layout of the 3-D EPG world assigned by the at least one user preference (col. 12, lines 40-52 discloses the EPG is based on the user's preferences; Fig. 10, 138 and col. 21, lines 10-15 discloses the user's ability to select preferences for the 3D world; col. 19, lines 5-35 discloses the selection of a channel, via the user link 122, having program title 94 that causes a response of a modified layout having the additional information displayed, including the display and tuning of the channel of transmission having the program title 94).

Regarding claim 2, Finseth teaches the system of Claim 1 wherein the system comprises at least one of a set-top box, a television, and a VCR (Fig. 1 shows the receiver station, which is shown in greater detail in Fig. 3 having a set top box 64, television 66 and recording device 68 used for storing the EPG as disclosed in the abstract).

Regarding claim 3, Finseth teaches the system of Claim 1 wherein the system includes a plurality of drivers, one of the drivers communicating with a separate unit to replenish programming information (col. 6, line 40 – col. 7, line 2; col. 8, lines 21-44 discloses the replenishment of programming information).

Regarding claim 5, Finseth teaches the system of Claim 1 wherein the database further includes at least one of a program event, program schedule time, program channel identification, and program title (col. 5, lines 39-59).

Regarding claim 8 (Currently Amended), Finseth teaches the system according to Claim 1 wherein the at least one user preference assigns the 3-D EPG world to two or more channels of the 3-D EPG (Fig. 8A shows the assigned 3D worlds having two or more channels in 98A, B, E & F; Fig. 10 shows 138 shows the user preferences button, which allows the user to select the channels in the worlds according to col. 20, line 57 – col. 21, line 15).

Regarding claim 9, Finseth teaches the system of Claim 1 wherein the virtual world layout of the 3-D EPG world is a matrix of rectangular boxes (Fig. 8A shows the matrix of rectangular boxes).

Regarding claim 13, Finseth teaches the method of Claim 12 wherein the database further includes a plurality of objects associated with current programming events (col. 6, line 40 – col. 7, line 8).

Regarding claim 41, Finseth teaches the system of Claim 1 wherein the layout of the presented virtual world is comprised of environmental portions that do not include programming information (Fig. 8A, 96).

Regarding claim 42, Finseth teaches the system of claim 1 wherein the plurality of 3-D EPG worlds includes a first world, having a first layout, and a second world, having a second layout that is different from the first layout (Fig. 8A shows the various layouts having different sizes, shapes, and arrangements within each 98A-F).

Regarding claim 43, Finseth teaches the system of Claim 1 wherein the database further includes localized interactive content, and the first unit is further configured to generate the 3-D EPG based on the localized interactive content (col. 5, lines 39-59 discloses the schedule of the EPG shown in Fig. 8A includes local content).

Regarding claim 44, Finseth teaches the system of claim 43 further including a user interface configured to allow a user to interact with the localized interactive content (col. 10, lines 10-24).

Regarding claim 45 (Currently Amended), Finseth teaches the system of claim 43 wherein the database is configured to store the localized interactive content in real-time (col. 7, lines 46-62).

Regarding claim 46 (Currently Amended), Finseth teaches the system of claim 1 wherein the database further includes electronic commerce objects, and the first unit is further configured to generate the 3-D EPG based on the electronic commerce objects (Fig. 9, 130; col. 20, lines 18-33).

Regarding claim 50, Finseth teaches the system of claim 1, wherein the selection of the channel is received in response to an interaction with the 3-D EPG (Fig. 8A; col. 12, lines 10-25).

Method and computer readable media **claims 12, 14, 16, 19-20, 23-25, 27, 30-31, 47-48** are rejected for the same reasons as stated above in the corresponding claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth et al., hereafter Finseth (US 6,754,906) in view of Knee et al., hereafter Knee (US 2002/0095676).

Regarding claim 35 (Currently Amended), Finseth teaches all the claim limitations as stated above, but is silent on one or more of the plurality of EPG worlds cater to particular age categories of viewers.

However, Knee teaches one or more of the plurality of EPG worlds cater to particular age categories of viewers (Fig. 2 shows the categories that consider the age of viewers; [0007] discloses the use of an age category to take action in the program guide).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to modify the 3-D EPG world of Finseth to use an age category to cater to specific viewers, in order to increase profitability of service providers with greater effectiveness of advertising, by providing intelligent information, based on the ages of the viewers, to show advertising that is most likely to cause future purchases.

Method **claim 38** is rejected for the same reasons as stated above in the corresponding claim.

Claims 37, 40, 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth et al., hereafter Finseth (US 6,754,906) in view of Martino et al., hereafter Martino (US 6,662,177).

Regarding claim 37 (Currently Amended), Finseth teaches all the claim limitations as stated above, but is silent on the first unit is further configured to: receive an assignment of a second 3-D EPG world to one or more other channels of the 3-D EPG from a programmer; and in response to receiving a second selection of a second channel of the one or more other channels, modify the layout of the presented virtual world based on the virtual world layout of the second 3-D EPG world.

However, Martino teaches the first unit is further configured to: receive an assignment of a second 3-D EPG world to one or more other channels of the 3-D EPG from a programmer (col. 3, line 52—col. 4, line 5 discloses the programmer, the user, assigning a second EPG world to a channel of the 3D EPG shown in Figs. 4-9); and in response to receiving a second selection of a second channel of the one or more other channels, modify the layout of the presented virtual world based on the virtual world layout of the second 3-D EPG world (col. 3, line 52—col. 4, line 5 discloses the resulting world is filtered based on the channel selection; col. 15, lines 23-35 explicitly states that if 5 channels are routinely selected from more than 100, then those 5 should be displayed prominently).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to modify the first unit of Finseth to receive an assignment of a world based on channel selection, which modifies the layout of the world, in order to provide the user with an easy-to-use, convenient and aesthetically pleasing user interface that minimizes the time required to find desirable programming of interest.

Regarding claim 51 (Currently Amended), Finseth teaches all the claim limitations as stated above, but is silent on the first unit is further configured to: prior to receiving the at least one user preference, display information representing one or more candidate 3-D EPG worlds to a user, the 3-D EPG world being one of the candidate 3-D EPG worlds, wherein the candidate 3-D EPG worlds are candidates for assigning to one or more particular channels of the 3-D EPG, and wherein receiving the at least one user preference includes receive receiving information that represents a selection of the 3-D EPG world from the one or more candidate 3-D EPG worlds by the user.

However, Martino teaches the first unit is further configured to: prior to receiving the at least one user preference, display information representing one or more candidate 3-D EPG worlds to a user, the 3-D EPG world being one of the candidate 3-D EPG worlds, wherein the candidate 3-D EPG worlds are candidates for assigning to one or more particular channels of the 3-D EPG, and wherein receiving the at least one user preference includes receive receiving information that represents a selection of the 3-D EPG world from the one or more candidate 3-D EPG worlds by the user (Fig. 7 shows multiple worlds having both implicit and explicit profiles; col. 3, line 52—col. 4, line 5

discloses the resulting world is filtered based on the channel selection; col. 15, lines 23-35 explicitly states that if 5 channels are routinely selected from more than 100, then those 5 should be displayed prominently).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to modify Finseth to display multiple candidate worlds, which allow for user selections that include user preferences, in order to provide the user with an easy-to-use, convenient and aesthetically pleasing user interface that minimizes the time required to find desirable programming of interest.

Method **claim 40** is rejected for the same reasons as stated above in the corresponding claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Hoarty US 5,485,197
2. Matthews, III et al. US 5,724,492
3. Williams et al. US 5,977,964

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN LEWIS whose telephone number is (571)270-3233. The examiner can normally be reached on Mon - Fri 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian T Pendleton/
Supervisory Patent Examiner, Art Unit 2425